BOARD OF APPEALS for MONTGOMERY COUNTY

751 Twinbrook Parkway Rockville, MD 20851

(240) 777-6600

http://www.montgomerycountymd.gov/boa/

CASE NO. A-6673

PETITION OF WILLIAM MARTIN AND PAULE AUDEBERT

NOTICE OF HEARING

Please take notice that the Board of Appeals for Montgomery County, Maryland, will hold a public hearing, likely using technology in lieu of in-person attendance due to COVID-19, on Wednesday, the 2nd day of December, 2020, at 9:30 a.m., or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 59-7.3.2.A of the Zoning Ordinance. Instructions for remote participation in this hearing, assuming the hearing is held remotely, will be posted on the Board's webpage (address above) once they are available. If the hearing is not held remotely, it will be held in a temporary hearing room located at the Broome School, 751 Twinbrook Parkway, Rockville, Maryland, on the above-scheduled date and time. Please check with Board staff as the hearing date approaches to see if proceedings are still being conducted remotely.

In accordance with Section 59-4.4.9.B.2.a of the Zoning Ordinance, the proposed construction of an accessory structure requires a variance to be located forward of the rear building line.

The subject property is Lot P2, Block 12, Section 4 Chevy Chase Subdivision, located at <u>4109 Rosemary Street, Chevy Chase, Maryland, 20815</u> in the R-60 Zone. (Tax Number Account No. 00461590)

Notices forwarded this 2nd day of November, 2020, to:

William Martin and Paule Audebert
R. Warren Short
Charles Frederick, Esquire, Associate County Attorney
Washington Suburban Sanitary Commission
State Highway Administration

County Board of Education Contiguous and confronting property owners Local Citizens Associations

County Board of Appeals

Barbara Jay

Executive Director

All parties who make submissions, after an initial filing, in Special Exception, Variance and Administrative Appeals cases, must furnish copies of the submission to all other parties in the case. For the purpose of this requirement, a party includes: (1) Counsel of record who have formally entered their appearance; (2) Any person to whom the Board of Appeals has granted Intervener status; and (3) The Applicant, Petitioner or Appellant in the case.

Submissions must be accompanied by a written statement certifying that copies have been sent to all parties. Effective September 6, 2002, failure to supply such written certification will result in refusal of the submission.

Case files are available for public review at the office of the Board of Appeals, Monday through Friday, 8:30 a.m. – 4:00 p.m.

RECEIVED

BOA Form 2 (Revised 10/29/14)

BOARD OF APPEALS

(240) 777-6600

SEP 17 2020

Docket No. A-Date Filed

FOR BOARD OF APPEALS Hearing Date
MONTGOMERY COUNTY, MARYLANDGOMERY COUNTY Time

PETITION FOR VARIANCE UNDER ZONING ORDINANCE

(Please Note Instructions on Reverse Side) (PLEASE PRINT)

Name of Petitioner(s): WILLIAM MARTIN AND PAULE AUD	EBERT	
Address of Petitioner(s): 4109 ROSEMARY STREET	City CHEVY CHAS	E Zip_20815
Description of property involved: Lot P2 Block 12	ParcelSubdivision_0011	
Street and No. 4109 ROSEMARY STREET City CH	HEVY CHASE Zip_20815 Zone	Classification R-60
Appellant's present legal interest in above propert Owner (including joint ownership)Other	v (check one): Tax Account No 004t r (describe)	5159A
If not owner, name and address of owner:		
What variance is requested, and what is the pertin Ordinance? SECTION 59-4.4.9.B., R-60 ZONE, STANDARD ME	ent section of the Zoning THOD DEVELOPMENT STANDARDS., CASE N	NUMBER: 376782
Check existing reason(s) why the Ordinance requiowner:narrownessshallownessshape situations or conditions peculiar to this property.		· · · ·
Describe this property's extraordinary situation or properties: THE EXTREME SHALLOWNESS OF THE LOT, AND	Deculiar conditions compared to nei	ghboring DENCE TO THE REAR PROPERTY
LINE RESULT IN A REAR YARD OF 3 FEET.		
How will the peculiar condition described above re granted? HAVING NO USEFUL SPACE IN THE REAR OF THE EFOR THE FAMILY LIVING. BUILDING THE PERGOLA OVER THE A MODEST AMOUNT OF PRIVACY WHEN USING THEIR PROPER	BUILDING, THERE IS NO OTHER PRIVATE, OF EXISTING TERRACE IN THE STANFORD STR	R SEMI-PRIVATE, OUTSIDE SPACE
Date of recording of plat of present subdivision: 190 deed recorded, or state that such deed was first re	^{19/10/07} ; or, if property is un-sub corded prior to March 6, 1928:	divided, date on which
Has any previous variance application involving the If so, give Case Number(s): N/A	is property been made to the Board	of Appeals?
I have read the instructions on the reverse side of information. I hereby affirm that all of the statement rue and correct.	nts and information contained in or t	filed with this petition are
Name of Attorney/Agent (Print Name next to Signature)	Signature of Petitioner(s) (Print Nam	e next to Signature)
Address of Attorney	Address of Petitioner	by street, Cherry my
Phone Number (OVER)		k Phone 2 0815

EXHIBIT NO.

Statement of Variance Justification

Property: Lot P2, Block 12, Town of Chevy Chase

Tax Map HN42/Subdivision 011

4109 Rosemary Street

Land Area: 6,180 square feet, recorded

6,585 square feet, surveyed

Petitioner: William F. Martin, Paule Audebert, Owners

Request: Accessory Structure in other than Rear Yard

Zone: R-60

I. Factual Background:

The original existing home was constructed in 1926 in the Spanish Revival style. The Petitioner purchased the residence and property in February 2017. Since that time, the Petitioner has attempted to adapt outside living to the unusual situation of a home with streets on three sides, and an extremely shallow rear yard. An existing terrace on the north side near the kitchen has been improved. On submission of a building permit for a pergola over this terrace, the Zoning Office issued a letter of Building Permit Denial on 26 August 2020.

II. Reason for the appeal:

Having a depth of 55 feet on Rosemary Street, the lot is unusually shallow for single-family homes in Montgomery County and Chevy Chase, resulting in an extremely shallow rear yard. Thus, to have an exterior private or semi-private garden space requires the use of spaces fronting one of the adjacent streets. Living on the property for two years has led the Petitioner to propose building a pergola structure at an existing terrace to provide partial privacy and add sun protection.

III: Applicable Portion of the Zoning Code:

The Petitioner is seeking a variance on the location of an accessory structure. Section 59-4.4.7.B.2.a states that "In addition to the front setback minimum, any accessory structure must be located behind the rear building line of the principal building." As shown in the drawings submitted, based on the uniqueness of the lot and the location of the house, the rear yard is approximately 3 feet deep. This depth makes it impossible to locate an accessory structure behind the rear building line.

IV. Evidence supporting the Variance:

Based on Section 59.7.3.2.E. of the Montgomery County Zoning Ordinance, the Board of Appeals must agree with the following findings, noting that only one of the E.2.a requirements must be met.

E.2.a.i. The Property contains exceptional and unusual shallowness and extraordinary conditions. The property is fronted on three sides by public streets as shown on drawing Sheet A100. The lot is approximately 100 feet wide and between 55 and 65 feet deep. The existing residence is constructed

parallel to the long side of the property and is 3 feet from the rear property line. An easement on the neighboring property to the west is required for access to a minimal garage in the residence. This geometry and placement of the house in 1926 results in a rear yard that is 3 feet deep.

E.2.b. The special circumstances are not the result of actions by the applicant.

As indicated in the State Department of Assessment and Taxation of Real Property on their website, which is shown below, the residence was constructed in 1926, prior to the Applicant's purchase of the property in 2017. Thus, the special circumstances are not the result of the actions by the applicant.

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Account ide		LIFE .	District -	07 Account Numbe	r - 00461590						
			_		- 5	Owner Information					
lwner Nam	sec.			WILLIAM FLYNN RT PAULE GISELE (GERMAINE.		Usa: Princi	pal Reside	nce:	RESIDENTIAL YES	
failing Add	iress:			SEMARY ST CHASE MD 20815			Deed !	Reference	:	/53729/ 00301	
					Locatio	n & Structure Information					
remises A	ddress:			SEMARY ST CHASE 20815-0000			Legal	Descriptio	n:	SEC 4 CHEVY C	HASE
Map:	Grid:	Parcel:	Neighborhood:	Subdiv	ision:	Section:	Block:	Lot:	Assessment Year:		Plat No:
4N42	0000	0000	7230011.16	0011			12	P2	2020		Plat Ref:
Town: TO	WN OF CHEVY	CHASE									
Primary S	tructure Built		Above Grade Livi	ng Area		Finished Basement Area			Property Land Area		County Use
1926			2,512 SF			1017 SF			6,160 SF		111
Stories	Basemani		Туре	Exterior	Quality	Full/Half Bath	Gan	ige	Last Notice of Major is	mprovements	
2	YES		STANDARD UNIT	STUCCO/	9	3 full			2015		

E.2.c. The requested variance is the minimum necessary to overcome the practical difficulties that full compliance would impose due to the unusual or extraordinary situation or conditions on the property.

To address the practical difficulties of having a semi-private space near the kitchen, the Petitioners are proposing an open structure for screening, instead of solid fencing or a structure with solid walls or roof. The existing terrace to be covered by the proposed pergola structure is 233 square feet. According Section 59-4.4.7.B.2.b, the maximum size allowed for accessory buildings is 50% of the footprint of the residence, or 600 square feet whichever is greater. If the residence were on a conforming lot, the maximum allowable area of an accessory structure is 729 square feet. Thus, under the rules of the R-60 zone, a much larger accessory structure would be allowed on a conforming property. Both aesthetically and functionally, the Petitioner proposes a reasonably sized structure, matching the size of the existing terrace, and constructed of materials in keeping with the existing residence.

E.2.d. The variance can be granted without substantial impairment to the intent of the general plan. With the exception of the rear yard, the present residence conforms to the requirements of the General Plan and R-60 zoning requirements. The size of the structure conforms to the existing terrace space and does not change the nature of use of the space which is a typical use in an R-60 Zone. There will be no noise or activity unusual to those of single-family residences in the neighborhood.

E.2.e. Granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

The intended use of the accessory structure is typical of a single-family residence, and does not change the present use of the terrace space. On the adjacent lot, and separated by a driveway, an exterior terrace space is similarly located and used in a similar way. The accessory structure is an open sided

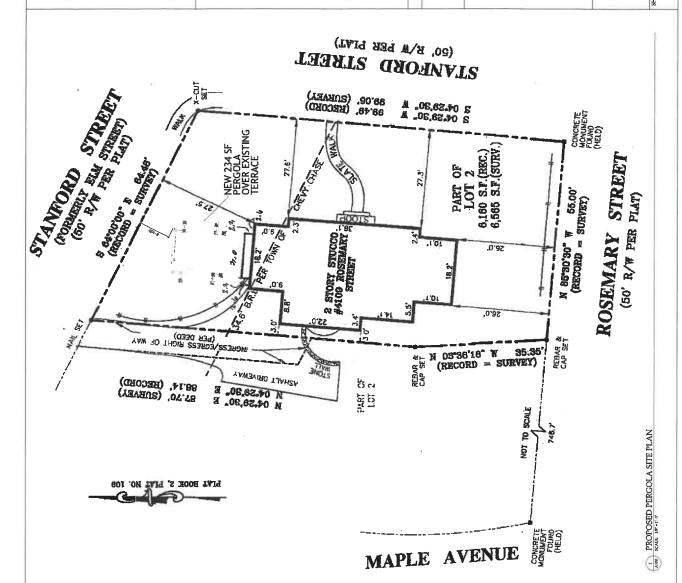
28 August 2020 Statement of Variance Justification 4109 Rosemary Street, Chevy Chase

pergola without a roof, permitting the flow of air and light. The design and materials are consistent with the existing style of the home. Thus, granting the variance will not adversely affect abutting or confronting properties.

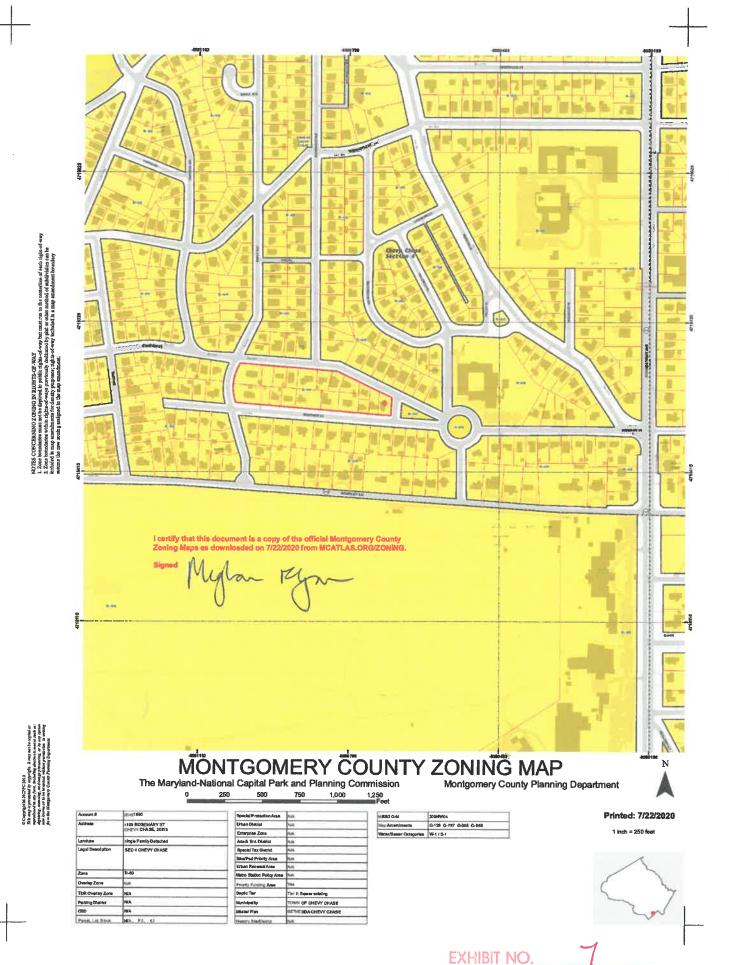
V. Conclusion:

The Petitioner submits that the application, drawings, and supporting documents demonstrate the unusual geometry of the lot and atypical placement of the residence, and that the requirements for accessory structures disproportionately affect the reasonable use and enjoyment of the exterior spaces of this property.

EXHIBIT NO. 4(b)



NAJIY STTE PLAN



Marc Elrich
County Executive

Signature

Mitra Pedoeem

Director

BUILDING PERMIT DENIAL 376782

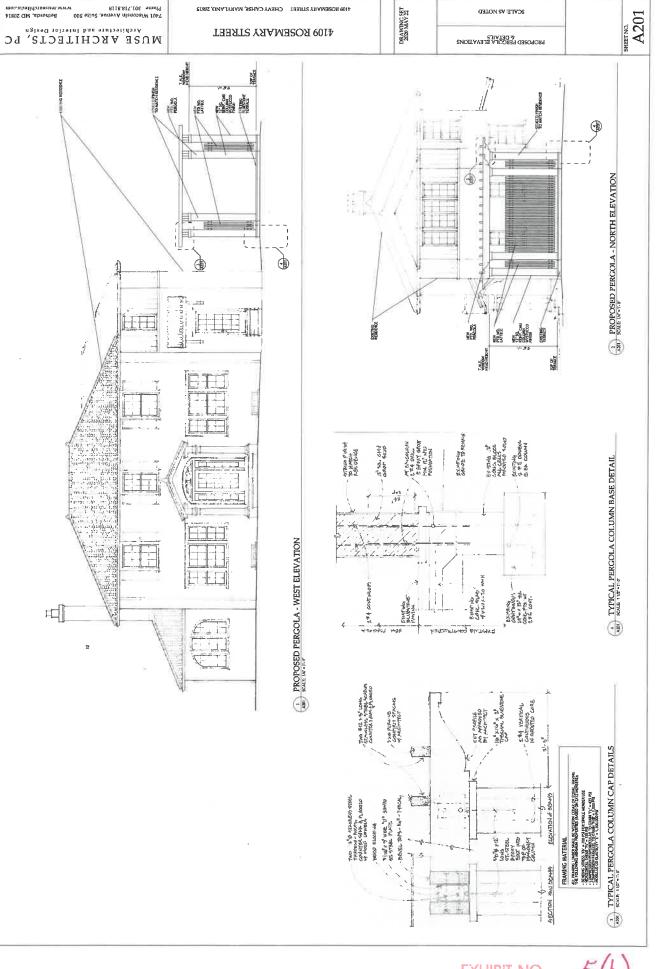
The Department of Permitting Services	cannot issue a building permit for	the property indicated	l below without a	variance from the
Montgomery County Board of Anneals				

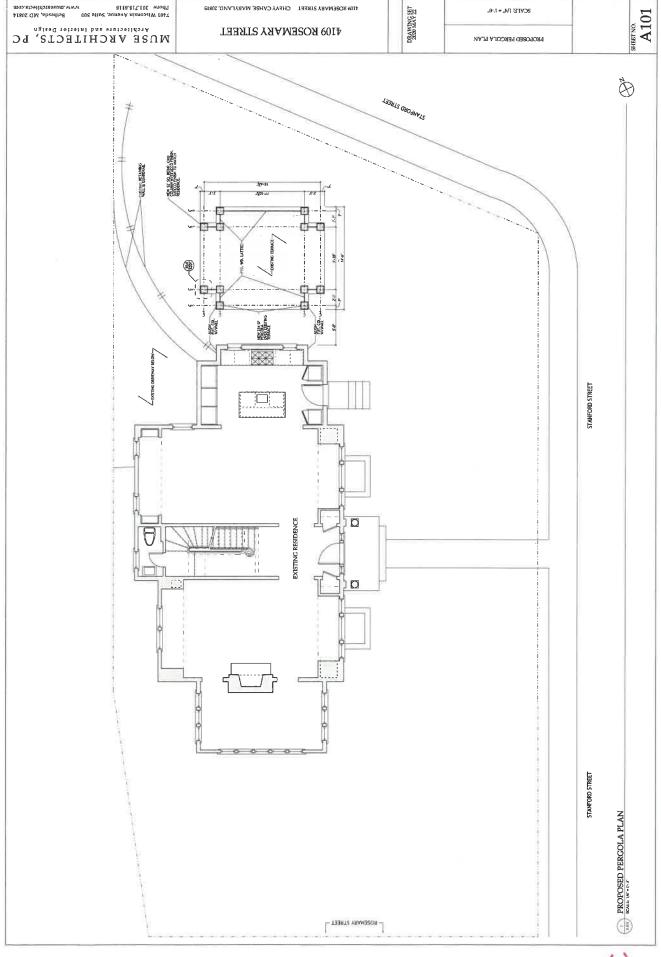
NAME:	William F Martin		
ADDRESS:	4109 ROSEMARY ST CHEVY CHASE, MD 20815		
LOT - BLOCK	K: P2 - 12		ZONE: R-60
THE VARIAN	ICE REQUEST IS FOR		
N	EXISTING STRUCTURE	N	PROPOSED STRUCTURE
N	NON-CONFORMING	N	NON-COMPLYING
N	NEW SINGLE-FAMILY DWELLING		
TYPE OF CON	NSTRUCTION:		
N	ROOM ADDITION	N	SWIMMING POOL
N	PORCH	N	DECK
N	SHED	N	FENCE/RETAINING WALL
Y	ACCESSORY STRUCTURE	N	GARAGE/CARPORT
N	OTHER		
The proposed o	construction requires a 0.00 ft. variance as it is w	ithin (0.00 ft. of the lot line.
The required se	stback is 0.00 ft. in accordance with Section 59		
The required su	ım of both side yards is 0.00 ft. in accordance wi	th Sec	ction 59
The proposed c	onstruction reduces the sum of both sides to 0.00) ft., c	reating a violation of 0.00 ft.
The proposed c	onstruction requires a variance from the Exempt	ion fr	om Controls, Section 59-B as follows:
	onstruction pergola forward of rear building line		
1 am	madehaw-		

EXHIBIT NO. _____

8/26/2020

Date





4109 ROSEMARY STREET

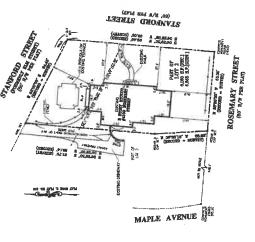
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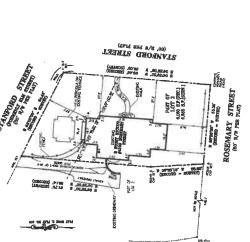
7401 Wisconsin Avenue, Suite 500 Phone 301,718,8118

MUSE ARCHITECTS, PC

CHEVY CHASE, MD 20815







talica e Pa Halbore	INDEX A00 A00 A00 A00 A00 A00 A00 A00 A00 A0	COVER SHEET SITE PLAN FINE PLAN PROPOSED ELEVATIONS & DETAILS F. MAP
\	Sheritord St	61
		Hilbert

4109 ROSEMARY STREET CHEVY CAHSE, MARYLAND, 20815

4109 ROSEMARY STREET

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1		
Sheritoris sq	Rosenay St	

DRAWING SET 2020 MAY 22

ZONING SUMMARY

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CONCRETE

STRAY FOAM

WOOD FLYWOOD

KEY TO MATERIALS AND SYMBOLS

MAN BATTATION

LOT DESCRIPTION:	Tax Map HN42	Subdiverse 0011/ Block 12/1	Tax Map HN42Subdivision 0011/Block 12/Lot P2/TOWN OF CHEVY CHASE	HASE
AD DIRESS:	4109 Rosemany	4109 Rosemary Street, Chery Chase, MD 20815	815 (Montpomery County)	
ZONE:	R-60			
		ALLOWABLE (pr. Noshponosy County Zoring Ordinance)	EXISTING	PROPOSED
LOT SIZE:		6,000 SF min.	6,160 SF	Existing to remain
LOT COVERAGE:		2,156 SF (35% of lot)	1,425 SF	Existing to remain
PerMontgomery County Co required.	de Chapter 8, Se	ction 8-29B, intreversite is	net increased more than 40	Per Montgomery County Code Edupper 8, Section 8-198, <u>incresers is net incresed more than 400 sq. fi.;</u> therefore, no desings plan i required.
PRINCIPAL BIRLDING SETBACKS;	FRONT	25 FT smin.	28FT±	Existing to remain
	SIDE	8 FT man.	29.6 FT ± north side 26 FT ± south side	Evising to remain Existing to remain
	REAR	20 FT min	JFT±	Existing to remain
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SCALE: AS NOTED

COVER SHEET

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FROST LINE DEPTH	W inches	ATR FREEZING INDEX	300
TERMITE	Mederate to heavy	MEAN AVNUAL TEMP.	3.65

GROUND SNOW LOAD	30 pc	DECAY	State to moderate
WIND SPEED	135 cpb	WINTER DESIGN TEMP.	13°F
SEISMIC DESIGN CATEGORY		ICE SHIRLD UNDERLAYMENT REO'D.	, Ka
WEATHERING	SEVERE	FLOOD HAZARDS	Jaby 2, 1979
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TERMITE	Mederate to heavy	MEAN AVNUAL TEMP.	3.65
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янеет NO. A001

GENERAL NOTES

A HXTURE/

CASE NO. A-6673

PETITION OF WILLIAM MARTIN AND PAULE AUDEBERT

EXHIBIT LIST

1.	Application
2.	List of adjoining/confronting property owners
3.	Statement of Justification
4.	(a) Site Plan (Large) (b) Site Plan (Reduced)
5.	 (a) Proposed West and North Elevations (Large) (b) Proposed West and North Elevations (Reduced) (c) Proposed Pergola Plan (Large) (d) Proposed Pergola Plan (Reduced) (e) Cover Sheet (Large) (f) Cover Sheet (Reduced)
6.	DPS Permit Denial
7.	Certified Zoning Vicinity Map (Reduced)
8.	(a) Envelope showing date notice mailed(b) Notice of hearing scheduled for December 2, 2020
9.	
10.	
11.	
12.	
13.	

Real Property Data Search (w2)

Search Result for MONTGOMERY COUNTY

View Map		View Ground	dRent Rede	mption			V	iew Grou	ndRen	t Registr	ation
Special Tax Rec	apture:	None									
Account Identifie	er:	District	- 07 Acco u	nt Numbe	er - 00461590)					
					Information						
Owner Name:			WILLIAM I		GERMAINE		Use:	al Reside	nce:	RESIDE YES	ENTIAL
Mailing Address:			OSEMARY:		GERMAINE			eference:		/53729/	00204
Maining Address.	•		CHASE ME				Deed IX	sierence.	•	1551291	00301
			Loca	ation & Str	ucture Inform	ation					
Premises Addres	SS:		OSEMARY : CHASE 20				Legal D	escriptio	n:	SEC 4 (CHEVY CHASE
Map: Grid:	Parcel:	Neighborhoo	d: Subd	ivision:	Section:	Blo	ck: Le	ot: Ass	essme	nt Year:	Plat No:
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Town: TOWN O	F CHEVY	CHASE									
Primary Structu	ıre Built	Above Grade	e Living Arc	ea Fir	nished Base	ment	Area	Prope	rty Lan	d Area	County Use
1926		2,512 SF		10	17 SF			6,160	SF		111
Stories Basem	nent Ty	ne	Exterior	Quality	Full/Half B	lath	Garage	e lasti	Notice (of Major I	mprovements
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Improvements		491,			45,800						
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Partial Exempt A	ssessme	ents: Class		Everibilo	n Information		07/01/20	020		07/01/20	n21
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State:		000					0.00				
Municipal:		000					0.00 0.0	0		0.00 0.0	0
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Homestead Appl	ication S			rs' Tav Cro	dit Applicatio	n Infe	ormation				
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^{1.} This screen allows you to search the Real Property database and display property records.

Click here for a glossary of terms.
 Deleted accounts can only be selected by Property Account Identifier.